IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Hans-Stephan Albrecht, et al

Application No.: 09/903,425

Filed: July 10, 2001

For: PRECISE MONITOR ETALON CALIBRATION TECHNIQUE

Group Art Unit: 2828

Examiner: Hung T. Vy

APPEAL BRIEF

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M/S APPEAL BRIEF PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 9, 2004.

STALLMAN & POLLOCK LLP

Dated: 04/09/2004 By: Georgia K. Stith

Georgia K. Stith

Sir:

This is a brief for an appeal from a Final Office Action mailed January 13, 2004, and from a Notice of Appeal mailed herewith. Three copies of this appeal brief are enclosed.

Real Party in Interest

The real party of interest is Lambda Physik, AG, pursuant to the assignment recorded in the PTO on September 26, 2001 at reel/frame 012196/0890.

Related Appeals and Interferences

There are no known related appeals or interferences.

Status of Claims

Claims 1-20 were originally presented on the filing of the present application 09/903,425. Claim 20 was subsequently canceled. Claims 1-19 are pending. Claims 1, 3, 5, 6, 7 were Amended in a Response to a Non-Final Office Action (this Amendment was mailed on

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Atty Docket No.: LMPY-12910 [273/U]

Das et al. 6:53-62. It is respectfully submitted that the teaching of Das et al. expressly appears to teach that one should take care to minimize the wavemeter drift, but provides no suggestion, that one might actually take steps to account for drift which is present a wave measurement system. Thus, the teaching of Das et al does not anticipate or suggest the methods recited by the pending claims. Indeed, it appears the focused discussion of Das shown above, regarding steps which can be taken to stabilize the wavemeter, would suggest that the system of Das relies on the calibration of the wavemeter, and then the wavemeter being very stable. It is respectfully submitted that this discussion does not begin to approach the idea of determining a drift for the wavemeter, and then using this determined drift to correct for future measurements by the wavemeter.

CONCLUSION

For the reasons set forth above, Applicant respectfully submits that the claims 1-19 are not rendered obvious by the cited prior art, and a holding to that end by the Board is respectfully requested.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: April 8, 2004 By: _____

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Attorney Docket No. LMPY-12910